

June 24, 2005

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: WC Docket No. 04-30 – Emergency Request for Declaratory Ruling – Additional
Ex Parte Filing By Gemini Networks CT, Inc. (“Gemini”) - Report of
Undisclosed Ex Parte Contacts**

Dear Ms. Dortch:

Gemini makes this ex parte submission to bring to the attention of the Commission published reports of undisclosed ex parte contacts by the Connecticut Department of Public Utility Control (“DPUC”) concerning the outcome of the Commission’s expected decision in this Docket. The DPUC has previously made several filings in this Docket

Specifically, the June 23, 2005 edition of the Hartford Courant included the attached article concerning certain legislation adopted by the Connecticut General Assembly related to the facilities which are the subject of this Docket and the prior DPUC decisions requiring that those facilities be made available to Gemini. Therein, the Courant reports that DPUC Commissioner Jack R. Goldberg, advised a member of the Connecticut General Assembly that he expected the FCC to grant SBC’s petition and preempt the DPUC decisions. The article expressly quotes Mr. Goldberg as basing that expectation on “ ‘just talking to FCC officials. My staff talks to their staff.’ ”

This Docket is a permit-but-disclose proceeding under Section 1.1206 of the Commission’s Rules. Such a representation by Commissioner Goldberg reflects far more than a mere status check, but substantive discussions about the likely outcome of the FCC’s action, at a time when the Docket is still pending. Assuming the Courant report is correct, and Gemini has no reason to believe at this point that it is not, such substantive conversations about the outcome of the docket, without the subsequent disclosure required under Section 1.1206, are inconsistent with the Commission’s ex parte rules.

As a result of the participation by Commissioner Goldberg described in the Courant article, the Courant article further reports that Governor of Connecticut has referred this involvement to the State Ethics Commission. In addition, Gemini has filed a motion with the DPUC for Commissioner Goldberg to recuse himself from further involvement in the DPUC arbitration and related dockets at the DPUC, as well as related Court proceedings in both the Federal and

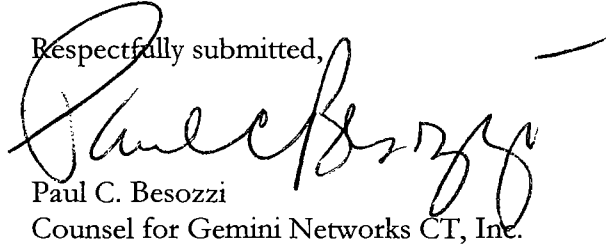
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State courts and this proceeding at the FCC. A copy of that motion, which provides further details on Commissioner Goldberg's involvement in the legislative process, is attached. As a result, at this point Commissioner Goldberg has voluntarily recused himself and his Staff solely from the ongoing DPUC arbitration. A copy of that recusal is also attached. Gemini will advise the Commission of further developments relating to its recusal requests.

Gemini provides this information so that the Commission may take whatever steps it may deem necessary to determine the nature of any discussions reported by Commissioner Goldberg concerning the substantive outcome of this proceeding.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being electronically filed through the ECFS.

Respectfully submitted,



Paul C. Besozzi
Counsel for Gemini Networks CT, Inc.

CC: Office of Chairman Martin
Office of Commissioner Abernathy
Office of Commissioner Copps
Office of Commissioner Adelstein
Office of the General Counsel

<http://www.courant.com/news/local/hc-sbc0623.artjun23,0,2612203.story?coll=hc-headlines-local>

Small Firm Cries Foul Over Bill Aiding SBC

Regulator's Role Prompts Ethics Query

By MARK PAZNIOKAS
Courant Staff Writer

June 23 2005

In the past 18 months, a telecommunications start-up called Gemini Networks won two regulatory victories in its fight for access to an unused video and data network owned by the state's dominant telephone company, SBC Connecticut.

But those victories could be negated by a single sentence added by a state senator late one night to a telecommunications bill passed by the General Assembly.

The provision would free SBC of any obligation to give Gemini leased access to a combined network of fiber and coaxial cable that runs through the state's richest communities. Instead, SBC could sell only deteriorated coaxial cable abandoned in 2001.

Gemini is crying foul, complaining that the legislature was changing the rules in the middle of a hard-fought game and that SBC was improperly assisted by the state's telecommunications regulator, Jack R. Goldberg - the key official charged with ruling on the SBC-Gemini dispute.

SBC, which already was asking a federal judge and the Federal Communications Commission to overturn rulings written by Goldberg in favor of Gemini, calls the accusation "a desperate attempt to create controversy where none exists."

Rell on Wednesday referred Gemini's accusations to the State Ethics Commission, asking for a quick response. The telecom bill is expected to reach her desk shortly, setting off a 15-day period in which she must sign or veto the measure.

"Jack Goldberg is properly regarded as an expert on telecommunications issues and his integrity has never been called into question," Rell said in her letter to the ethics commission. "However, I owe it to all parties involved, including Commissioner

Goldberg, to review any questions raised and to ensure that these questions are answered."

The bare-knuckle fight pits SBC Connecticut, the subsidiary of a national telephone giant, against Gemini, a start-up company backed by Arnold Chase of West Hartford, a technology buff and member of one of Connecticut's wealthiest families.

The battle also sheds light on the ability of one legislator, Sen. John Fonfara, D-Hartford, the co-chairman of the energy and technology committee, to single-handedly upend Department of Public Utility Control rulings that SBC must lease the network to Gemini.

At stake is control over a coaxial and fiber network that SBC's predecessor, Southern New England Telecommunications Corp., built in 26 communities from the Hartford area to Stamford, covering some of the state's most populous and prosperous towns.

SNET provided cable television service and hoped one day to move its entire phone service to the system, but the technology proved unsuitable, officials said. SBC shut down the cable service in 2001, though it made some use of the fiber network.

Gemini argues that once SBC decided not to use the network, it was required to make it available to others by state and federal laws aimed at fostering competition and lower prices. SBC disagreed, claiming among other things that the law was not intended to cover video networks and that its network was in such disrepair as to be unusable.

The DPUC ruled in Gemini's favor, ordering SBC to lease the company access to the network. Those rulings are being appealed.

By his own account, Fonfara played a highly unusual role in trying to settle the fight, going so far as to attempt to broker the sale of the network from SBC to Gemini. Fonfara personally faxed SBC's offer to Gemini from the Capitol. With time running out on the legislative session, Fonfara gave Chase 48 hours to make the purchase - or risk legislative intervention.

Chase refused, saying that condition and value of the system could not be determined that quickly. He also preferred to lease the combined fiber and coaxial system, rather than buy only the coaxial cable as SBC had offered.

SBC had cut its sales price from \$15 million to \$8 million, but its offer had at least \$15 million in hidden costs, said Gemini's attorney, Jennifer D. Janelle, a partner at the Hartford firm of Shipman & Goodwin.

Chase says the result of his refusal was the amendment negating the favorable DPUC orders and clearing the way for SBC to auction the network. The amendment also allowed for a memorandum of understanding between SBC and the DPUC that was drafted before the bill was passed but never disclosed to legislators. Its contents are still not public.

The amendment was added to a bill that SBC says would allow it to compete with cable systems that are providing telephone and Internet service along with a television signal.

William Vallee, a lawyer with the Office of Consumer Counsel, said the language Fonfara added to the telecommunications bill to resolve the SBC-Gemini fight appeared to be punishment for Chase's refusal of SBC's terms.

"It's in your face. That's what that is. It's 'Arnold, you didn't play ball. Take this, pal,'" said Vallee, who also objected to the underlying bill as regulatory relief that will only lead to higher prices for consumers.

The Senate passed the bill unanimously minutes after midnight on June 7. The House approved it, 144-4, at 10:30 p.m. the same day. The session's mandatory adjournment deadline was midnight June 8.

The dispute arrived in the governor's office June 10 in the form of a five-page letter from Janelle, Gemini's attorney.

She accused Goldberg of meeting with Fonfara and representatives of SBC to negotiate aspects of the bill on June 3, the day after Gemini refused SBC's final sale offer.

Goldberg said he did nothing wrong. He said attended meetings at the request of Fonfara, who wanted Goldberg's technical advice. He was at least at one meeting also attended by Janelle.

"If Attorney Janelle had a real problem with my presence, she should have spoken up immediately, not after she lost at the legislature," Goldberg said. "Now it smacks of sour grapes."

But Janelle said she objects only to Goldberg meeting with Fonfara and SBC on June 3, when Chase had no representation.

"Gemini cannot ever know for sure what happened at the meetings between Senator Fonfara, SBC and Commissioner Goldberg," Janelle wrote. "However, as the presiding officer over an active, contested matter between SBC and Gemini, Gemini firmly believes that Commissioner Goldberg should not have been present at any such meetings without alerting Gemini and affording Gemini the opportunity to be heard as well."

Fonfara said his only interest was to foster competition as quickly as possible, and he saw the unused SBC network the means by which competitors could one day provide telephone, i Internet and video services.

Then why not wait to see if federal authorities uphold state regulators and allow Gemini to provide those services?

Fonfara said he was advised by Goldberg, who had written the state rulings favorable to Gemini, that he expected to be overturned by the FCC.

"All I have to go on is a regulator who knows [the issue] better than I know it," Fonfara said. "He said to me several times that SBC was likely to prevail."

Fonfara said he did not ask Goldberg why he believed SBC would prevail.

Goldberg, in a brief interview Wednesday, said he based that assessment on "just talking to FCC officials. My staff talks to their staff."

Janelle said any such conversations with the FCC would be inappropriate, because the DPUC is a party to SBC's appeal.

SBC's legislative liaison, John Emra, said Janelle's letter and her complaints of improprieties are a calculated attempt to use the heightened sensitivity over ethics to force a veto of the bill.

"I think what's going on here is a little bit of ethical McCarthyism. I think there is this mood in the Capitol in Hartford," Emra said, referring to the scandal that forced the resignation of former Gov. John G. Rowland. "People think they can throw around charges of impropriety and cloud the whole issue."

Emra said SBC never sought the language that negates the DPUC rulings: It was Chase and Janelle who went to the Capitol to urge defeat of the telecom bill as a way to pressure SBC to drop its appeal of the DPUC rulings.

As a result, Fonfara developed an interest in the potential of the unused network and forced the issue - to the regret of Chase and Janelle.

"They tried to use this process," Emra said. "They tried to use the legislature to beat us over the head. They saw an opportunity. And with an opportunity, comes risk."

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Courant Staff Writer Jon Lender contributed to this report.

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STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

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|--------------------------------------|---|---------------------|
| RE: PETITION OF GEMINI NETWORKS |) | DOCKET NO. 05-02-04 |
| CT, INC. FOR ARBITRATION PURSUANT |) | |
| TO SECTIONS 252(b) AND 252(i) OF THE |) | |
| TELECOMMUNICATIONS ACT OF 1996 TO |) | |
| ESTABLISH AN INTERCONNECTION |) | |
| AGREEMENT WITH THE SOUTHERN NEW |) | |
| ENGLAND TELEPHONE COMPANY |) | JUNE 23, 2005 |

MOTION TO DISQUALIFY ARBITRAL STAFF

Gemini Networks CT, Inc. ("Gemini"), hereby respectfully moves to disqualify the arbitral staff appointed in the instant matter based upon Arbitrator Goldberg's admitted involvement with the negotiation and crafting of amendments to SB 1097 and a related secret Memorandum of Understanding ("MOU") with SBC. The subject matter of SB 1097, as amended, is directly related to the issues that must be decided by Arbitrator Goldberg in the instant matter. Additionally, Gemini has no way of knowing which members of the arbitral staff participated in such negotiations. Thus, Gemini requests that all Department employees involved in the arbitration or advising Arbitrator Goldberg with respect to the arbitration be recused.

I. Facts

The facts that support Gemini's request for the disqualification of Arbitrator Goldberg are undisputable. This arbitration concerns what should be a very simple interconnection issue – access to SBC's abandoned hybrid-fiber coaxial ("HFC") facilities as previously ordered by the Department in Docket Nos. 03-01-02 and 03-01-02RE01.

In January of this year, SBC proposed SB 1097 to provide it with pricing flexibility throughout the State. Along with the Office of Consumer Counsel ("OCC") and other competitive telecommunications companies, Gemini opposed the bill, testifying before the

Energy & Technology Committee and seeking meetings with various legislators. Gemini opposed the bill on the grounds that competition is not yet present in the Connecticut market and cited its historical problems in gaining access to the abandoned HFC Network. Commissioner Goldberg also testified at the hearings before the Energy & Technology Committee indicating that the Department supported SB 1097.

After the conclusion of the Energy & Technology Committee hearings related to SB 1097, Senator John Fonfara expressed interest in fostering competition in the telecommunications industry in Connecticut and sought to work with SBC and Gemini to negotiate the sale of the HFC facilities by SBC to Gemini. At the urging of Senator Fonfara, SBC and Gemini met on May 31, 2005 to discuss the terms of an offer of sale of the HFC facilities by SBC. Unbeknownst to Gemini until its arrival at the meeting, Commissioner Goldberg was invited to the meeting by Senator Fonfara.¹

At the meeting, Gemini expressed numerous reasons why a sale of the HFC Network was likely not plausible, including the fact that the DPUC decisions required the HFC Network to be made available for all competitors, that Gemini had been provided with no information on where the remaining portions of the HFC Network were located or what condition the HFC Network was in. Gemini was given 48 hours to make a decision. For the foregoing reasons, among others, Gemini rejected the offer, notifying Senator Fonfara of its decision on June 2, 2005.

Later in the evening of June 2, 2005, Senator Fonfara relayed to Gemini another purchase offer from SBC. Gemini also declined that offer for the reasons described above. Senator Fonfara indicated that the bill proposed by SBC would move forward and that SBC would be

¹ Although Gemini considered Arbitrator Goldberg's presence at this meeting to be unnecessary, and somewhat unusual, Gemini did not object because it did not consider the meeting to be *ex parte*, as both parties, SBC and Gemini, were present and were provided with the opportunity to be heard.

required to enter into a memorandum of understanding with another party. Gemini inquired as to whether there was another potential buyer for the network, to which Senator Fonfara responded "not at this time."

On June 3, 2005, Gemini's counsel was informed by an individual present at the Capitol that day that Commissioner Goldberg was again at the Capitol and was meeting with Senator Fonfara and representatives of SBC. Gemini's counsel was informed the parties were negotiating aspects of SB 1097.

On June 7, 2005, SB 1097 passed the House as initially proposed by SBC, but with two critical amendments. The first amendment provided the DPUC with authority to "enter into memoranda of understanding." The second amendment provided that SBC's HFC Network could not be unbundled unless expressly ordered by the Federal Communications Commission. This second amendment essentially destroys the DPUC's prior two rulings and revokes the access to the HFC Network that competitors were granted through the administrative and judicial processes.

Thereafter, on June 7, 2005, Gemini's counsel received another call and was told that the MOU had already been negotiated between SBC and the Department wherein, upon passage of SB 1097, the Department would reopen and vacate its decisions ordering unbundled access to the HFC Network. In exchange, SBC would permit the Department to place the HFC Network up for competitive auction at a minimum price and on terms and conditions established by SBC. Numerous parties, including Gemini, have approached the Legislative Commissioner's Office ("LCO") and requested a copy of the MOU. However, the MOU has not been made available to any party. However, no party has denied the existence of the MOU. In fact, Gemini was advised that the MOU was drafted, in part, by employees of the LCO.

During the House debate of SBC 1097 on June 7, 2005, at approximately 10:00 p.m., the issue of the MOU was raised by Representatives Megna and Nardello. Representative Fontana acknowledged the existence of the MOU, but stated that he had not read it. Representative Nardello described the contents of the MOU as they had been relayed to her. The amended bill passed the House on June 7, 2005 and is currently awaiting the Governor's action.

Gemini has grave concerns over the process through which the amendments were added to the bill and Arbitrator Goldberg's involvement in negotiating a MOU with SBC during the pendency of the arbitration and the appeals filed in U.S. District Court and at the FCC concerning the decisions in Docket Nos. 03-01-02 and 03-01-02RE01. As a party to this arbitration and the dockets that resulted in the decisions that the DPUC has agreed to vacate pursuant to the MOU, Gemini should have been provided with notice and an opportunity to be heard in these matters. Arbitrator Goldberg's involvement with the negotiations of the MOU and the amendments to SB 1097 outside the presence of Gemini have the appearance of impropriety and amount to improper ex parte communications with SBC.

II. Legal Basis For Motion to Disqualify Arbitral Staff

a. Arbitrator Goldberg's involvement with the legislative process that led to the addition of amendments to SB 1097 has the appearance of impropriety

The Department's own regulations provide, in pertinent part, that "the canons of professional ethics and the canons of judicial ethics adopted and approved by the judges of the superior court govern the conduct of the Commissioners. . . ."² Conn. Agencies Regs. § 16-1-32.

² Conn. Agencies Regs. § 16-1-32 provides as follows: "Where applicable, the canons of professional ethics and the canons of judicial ethics adopted and approved by the judges of the superior court govern the conduct of the commissioners, state employees serving the commission, and all attorneys, agents, representatives, and any other persons who shall appear in any proceeding or in any contested case before the commission in behalf of any public or private person, firm, corporation or association."

Canon 2 of the Code of Judicial Conduct provides that impropriety or the mere appearance of impropriety should be avoided at all times with respect to a judge's activities. With respect to claims involving the appearance of impropriety, Connecticut courts have stated that

Any conduct that would lead a reasonable [person] knowing all the circumstances to the conclusion that the judge's impartiality might reasonably be questioned is a basis for the judge's disqualification. Thus, an impropriety or the appearance of impropriety ... that would reasonably lead one to question the judge's impartiality in a given proceeding clearly falls within the scope of the general standard.... The question is not whether the judge is impartial in fact. It is simply whether another, not knowing whether or not the judge is actually impartial, might reasonably question his ... impartiality, on the basis of all of the circumstances.³

Here, even assuming that Arbitrator Goldberg's involvement with the amendments to SB 1097 and the negotiation of the secret MOU could be somehow justified, it can not be disputed that his actions have, at the very least, the appearance of impropriety and clearly demonstrate a lack of impartiality. Arbitrator Goldberg's decision to engage in open discussion and closed door meetings at the Capitol with SBC, its lobbyists and lawmakers, the outcome of which resulted in amendments to the bill that effectively undermined the Commission's own prior decisions and undid years of litigation and adversarial process between SBC and Gemini, raises serious questions concerning the ability of the Arbitrator to remain impartial with respect to the issues involved in this matter.

b. Arbitrator Goldberg's ex parte communications with SBC in connection with legislative process related to SB 1097 and the related MOU between SBC and the Department violates the Department's regulations concerning ex parte communications and the Code of Judicial Conduct

The DPUC, by its own regulations, also precludes the Commissioner from communicating directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced, unless the other party is afforded

³ Papa v. New Haven Federation of Teachers, 186 Conn. 725, 745-46 (1982) (citations omitted; internal quotation marks omitted).

notice and an opportunity to participate.⁴ See Conn. Agencies Regs. § 16-1-28. This regulation also mirrors Canon 3 of the Rules of Judicial Conduct which prohibits ex parte communications made to a judge outside the presence of the parties concerning a pending proceeding. See Canon 3 (a) (4), Code of Judicial Conduct. Gemini believes that Commissioner Goldberg violated each of these rules in connection with his involvement with SB 1097 and the related secret MOU.

Docket Nos. 03-01-02 and 03-01-02RE01 are the subject of currently pending appeals before the U.S. District Court of Connecticut and the FCC. The Department is currently defending its decisions in those dockets before both of those entities. Commissioner Goldberg's continued involvement with negotiations concerning the bill after his testimony before the Energy and Technology Committee hearings concluded, including his open discussions and closed door meetings with law makers and SBC which resulted in the amendments and the MOU, amount to improper ex parte conversations during the pendency of the appeals. It is indisputable that SB 1097, as amended, involves issues of fact and law that are in dispute in the appeals, and in this arbitration, over which Commissioner/Arbitrator Goldberg now presides. These negotiations directly violate the DPUC's own regulations and the Code of Judicial Conduct with respect to the propriety of ex parte communications. As such, they form the necessary factual basis for the disqualification of Arbitrator Goldberg and any similarly involved

⁴ Conn. Agencies Regs. § 16-1-28 provides as follows: "Unless required for the disposition of ex parte matters authorized by law, neither the commissioners nor any member of the commission staff designated as a presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate. The commission staff member designated as presiding officer and the commissioners may severally communicate with each other ex parte and may have the aid and advice of such members of the commission staff as are designated to assist them in such contested case. This rule shall not be construed to preclude such necessary routine communications as are necessary to permit the commission staff to investigate facts and to audit the applicable records of any party in a contested case at any time before, during and after the hearing thereof. (See Sec. 16-1-27)"

Department staff from the arbitration and Commissioner Goldberg from any continued involvement with Docket Nos. 03-01-02 and 03-01-02RE01 and the appeals of those dockets.

The per se violations of the prohibition on ex parte conversations by Arbitrator Goldberg require his disqualification.

[p]rocedural due process is a requirement of adjudicative administrative hearings. . . Balkus v. Terry Steam Turbine Co., 167 Conn. 170, 177 (1974). It is a fundamental requirement of a fair administrative hearing that “the one who decides shall be bound in good conscience to consider the evidence, to be guided by that alone, and to reach his conclusion uninfluenced by extraneous considerations. . . . Nothing can be treated as evidence which is not introduced as such.” Henderson v. Department of Motor Vehicles, 202 Conn. 453, 458 (1987), quoting Morgan v. United States, 298 U.S. 468, 480 (1936). “Ex parte communications with persons outside the agency are plainly improper under this standard for administrative adjudication” Henderson v. Department of Motor Vehicles, supra, 458.

General Statutes § 4-181(a) unequivocally prohibits an agency decisionmaker from communicating, in connection with any issue of fact, with any person unless all parties have been given an opportunity to participate. Similarly, Canon 3 §A(4) of the Code of Judicial Conduct prohibits a judge from initiating or considering ex parte communications concerning a pending proceeding.⁵

“As the Commission’s own statutes and regulations indicate a conflict situation does exist, it is not necessary to consider the provisions of the code of ethics for public officials contained in Chapter 10 of the General Statutes, § 1-79 et seq.”⁶

c. All Arbitral Staff Must Be Disqualified.

Gemini is at a tremendous disadvantage inasmuch as Gemini cannot know which members of the Department’s staff participated in the negotiation of the MOU or advised Arbitrator Goldberg with respect to his communications with SBC. Accordingly, Gemini respectfully requests that all arbitral staff currently assigned to this arbitration be disqualified.

⁵ Raccio v. Stone Safety Corp., 13 Conn. Worker’s Comp. Rev. Op. 281; 1995 Conn. Wrk. Comp. LEXIS 61 (1995) (citations and quotations in original).

Additionally, Gemini requests that the Department make due inquiry and ascertain those persons that participated in or have knowledge of the negotiations. Gemini does not request identification of those persons at this time, but merely requests that those persons identified not be appointed as staff members to serve the new Arbitrator or otherwise work on or advise with respect to this arbitration.

III. Disclosure of the Secret MOU is Required in This Instance.

Gemini further requests, pursuant to the Freedom of Information Act and in order to ensure the fair administration of justice, that the Department disclose the secret MOU negotiated by Arbitrator Goldberg and SBC. As the contents of the document clearly have a substantial bearing on the pending arbitration, and the secret MOU itself was negotiated, in part, by the Arbitrator, Gemini is entitled to disclosure of the document. In the event that the Department does not have a copy in its possession, Gemini respectfully requests that the new Arbitrator appointed by the Department order SBC to produce the secret MOU to both Gemini and the new Arbitrator.

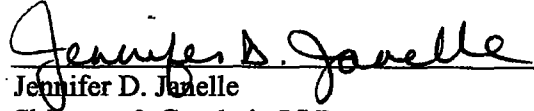
IV. Conclusion

For all of the foregoing reasons, Gemini respectfully requests that Arbitrator Goldberg and all staff currently assigned to the arbitration or having knowledge of the secret MOU and its negotiation be disqualified from serving in this matter. Gemini further requests that these persons also be disqualified from Docket Nos. 03-01-02 and -03-01-02RE01 and the appeals associated with those dockets. Last, Gemini requests that the Department disclose the secret MOU to Gemini, or, in the alternative, that the new Arbitrator order SBC to produce the secret MOU.

⁶ 1979 Conn. AG LEXIS 25 (1979).

Respectfully submitted,

GEMINI NETWORKS CT, INC.

A handwritten signature in black ink, reading "Jennifer D. Janelle". The signature is written in a cursive style with a horizontal line underneath it.

Jennifer D. Janelle
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Its Attorneys

June 23, 2005

Donald W. Downes, Chairman
Department of Public Utility Control
10 Franklin Square
New Britain CT 06051

RE: Gemini/SNET Arbitration
Petition of Gemini Networks CT, Inc. for Arbitration Pursuant to Sections 252(b)
and 252 (i) of the Telecommunications Act of 1996 to Establish an Interconnection
Agreement with The Southern New England Telephone Company d/b/a SBC
Connecticut

Dear Chairman Downes:

This letter serves as official notice of my voluntary recusal as Arbitrator in the
above-cited proceeding. My staff which consists of Peter Pescosolido, Gail Lucchina
and Vivian McWatt are also recusing themselves from this matter. Additionally, we
will also not participate in any docketed matter regarding this case.

Thank you for your attention to this matter.

Sincerely;

Jack R. Goldberg
Arbitrator

Cc. Service List